

*The draft below is a working paper. No policy or provision that appears in this document has been adopted by the Frederick County Charter Board. All policies and provisions that are contained in this draft are under debate. They are subject to amendment and deletion in subsequent drafts. The Charter Board expects to complete its work with a final document in the summer of 2012.*

## **CHARTER OF FREDERICK COUNTY, MARYLAND**

### **PREAMBLE**

We the citizens of Frederick County, Maryland, a body corporate and politic, under the Constitution and general laws of the State of Maryland, in order to establish a more dynamic, efficient, and responsive form of county government, which shall be empowered by us to exercise greater local authority to govern and be manifest in its scope to all, do adopt, ordain, and establish as our instrument of government this Charter of Frederick County, Maryland.

### **ARTICLE 1. General Provisions**

#### **101. Body Corporate and Politic**

Frederick County as it now exists constitutes a body corporate and politic. Under this Charter it shall have all the rights and powers of local self-government and home rule as are now or may be provided or necessarily implied by this Charter, the Maryland Constitution and laws of the State of Maryland.

#### **102. Exercise of Powers**

The powers provided in Section 101 of this Charter shall be exercised only by the County Executive, the County Council and other officers, employees and agents of Frederick County, acting under their respective authorities or under such other authorities as may be provided by this Charter or by law.

#### **103. Name and Boundaries**

The corporate name shall be "Frederick County, Maryland," and it shall be so designated in all actions and proceedings touching its rights, powers, properties, liabilities, and duties. Its boundaries and County seat shall be and remain as they are at the time this Charter takes effect, unless otherwise changed in accordance with law.

#### **104. Definitions**

() The term "Agency" means any agency, department, office, board, commission or administrative entity of the Frederick County Government.

() The term "Bill" means any proposed act of the County Council resulting in a law or ordinance. It shall not mean a resolution that is not intended to have the effect of law.

() The term "Budget" means...

() The term "County" means Frederick County, Maryland.

() The term "Frederick County Government" means the officers, personnel, departments, agencies, offices, boards, commissions, and other entities that are subject collectively to the powers of local self-government and home rule as are now or may be provided or necessarily implied by this Charter, Article XI-A of the Maryland Constitution, and Article 25A of the Annotated Code of Maryland.

() The term "Executive" means the County Executive of Frederick County.

() The term "Government" means the County Government of Frederick County.

() The term "Council" means the County Council of Frederick County.

() The term "Charter" means the Charter of Frederick County.

() The term "State" means the State of Maryland.

## **ARTICLE 2. County Council**

### **201. Composition**

There shall be a County Council of Frederick County, Maryland, composed of five (5) council members.

### **202. Powers**

All legislative powers which may be exercised by the County under the Maryland Constitution and laws of the State are vested in the Council, subject to those powers retained by the people of the County as hereinafter set forth in Section [Referendum] of this Charter.

### **203. Council to Act as a Body**

In all functions and deliberations, the Council shall act as a body. It shall have no power to create standing committees or to delegate any of its functions and duties to a smaller

number of its members than the whole. The Council may, however, appoint special ad hoc committees solely for the purpose of inquiry and fact finding.

#### 204. Election

**(a) The County shall be divided into five Council Districts, which shall be designated as Council District 1, Council District 2, Council District 3, Council District 4, and Council District 5. Until otherwise changed pursuant to Section [Redistricting] of this Charter, the boundaries of the districts shall be as follows: [to be established] [Alternatively: Until otherwise changed pursuant to Section [Redistricting] of this Charter, the boundaries of the districts shall be those provided in Chapter \_\_\_\_ of the Laws of Maryland 2012]**

*[Staff note: the elements in Paragraph (a) will be discussed at a later date]*

(b) A council member shall reside in each of the five Council Districts and be nominated and elected by the voters of the district in which a council member resides. Council members shall be elected at the same time as members of the General Assembly are elected in the manner provided by law.

#### 205. Qualifications

(a) Except as provided in subsection (b) of this section, each council member shall be a citizen of the United States and, for at least one year immediately preceding election or appointment, a resident and registered voter of the County and the district from which the council member is elected or appointed.

(b) If a candidate for the Office of County Council cannot have resided and been a registered voter of the district in which he or she resides for at least one year prior to election solely because the boundaries of the district have changed as a result of redistricting as provided in Section \_\_\_\_ of this Charter, the candidate may be elected or appointed to represent the district if he or she meets the following criteria:

- a citizen of the United States
- a resident and registered voter of the County for at least one year prior or election or appointment; and
- a resident and registered voter of the district for at least six months.

(c) While serving as a council member, no council member may:

(1) Hold any other elected public office;

(2) Hold any other office of profit created by the Maryland Constitution or laws of the State, pursuant to Article 35 of the Maryland Declaration of Rights;

(3) Be employed by any public agency, department, board, commission, or other public entity receiving any funds from the Budget; and

(4) Hold any compensated position in any public agency, department, board, commission, or other public entity receiving any funds from the Budget.

**206. Term of Office**

(a) A council member shall hold office for a term beginning at noon on the first Monday of December next following the election of the council member and ending at noon on the first Monday of December in the fourth year thereafter, or until a successor is qualified.

(b) No council member may serve more than three consecutive terms.

(c) For purposes of the restriction imposed by subsection (b), a council member who has been appointed to fill a vacancy and who has served two or more years of that term will be considered to have served one full term. An appointed council member who serves less than a two-year term will be considered, solely for purposes of the subsection (b) restriction, not to have served a term as a council member.

**207. Compensation**

Each council member shall receive as compensation and allowances for the performance of public duties under this Charter the sum of not less than \_\_\_\_\_ (\$\_\_\_\_\_) per annum. A council member shall not accrue annual leave or be entitled to any payment in lieu thereof. The compensation and allowances shall be in full compensation for all services performed, but shall not preclude reasonable and necessary expenses as may be provided in the Budget. The Council shall establish by ordinance a Compensation Review Commission every four years to review the Council's compensation and allowances in accordance with the provisions of Article 25A Subsection 5(AA) of the Annotated Code of Maryland. The Council may reduce or reject the Commission's recommendation, but it shall not increase any recommended item.

**208. Forfeiture of Office**

(a) A council member shall immediately forfeit office upon ceasing to be:

(1) a citizen of the United States;

(2) a registered voter of the County; or

(3) a resident of the Council District in which the council member resided when elected or appointed.

(b) No council member may forfeit office by reason of a change in the boundaries of any Council District made during the council member's term of office.

**(c) A council member shall be suspended by operation of law without compensation from office upon being granted probation before judgment for, upon the acceptance of a plea of nolo contendere by a court to, or upon being convicted of a felony or a crime involving moral turpitude. During the period of suspension the Council shall appoint a person to temporarily fill the elective office in the manner provided in Section 209 of this Charter. If the conviction becomes final, after judicial review or otherwise, the council member shall be removed from office by operation of law and the office shall be deemed vacant.**

*[Staff note: the elements in Paragraph (c) will be discussed at a later date]*

## **209. Vacancies**

(a) A vacancy occurs when a council member, prior to the expiration of the term for which elected, dies, resigns from office, is suspended from office, or becomes disqualified to hold office pursuant to Section 208 of this Charter.

(b) When a vacancy occurs, the remaining council members within 45 days shall appoint a person to serve the unexpired term of office. The appointee shall be selected by a majority vote of the remaining council members. The appointee shall meet the same qualifications and residence requirements and, when succeeding a party member, shall be a member of the same political party as the person who vacated office.

(c) When succeeding a party member, the appointee shall be selected from a list of three persons submitted to the Council by the County central committee of the political party affiliated with the person vacating office, provided the list is submitted within thirty days from the date a vacancy occurs. If no such list is submitted within 30 days, or if the council member vacating office is not a member of a political party, the Council shall appoint the person it deems best qualified to hold office regardless of his or her party affiliation, if any, provided the appointee meets the qualifications and residency requirements provided in Subsection (b) of this section.

(d) If the Council fails to fill a vacancy pursuant to the provisions of this section, the Executive shall appoint a person to fill the vacancy, provided the appointee is nominated in accordance with the provisions of this section and meets its qualification and residency requirements.

## **210. Officers**

At the first scheduled meeting of the Council in December following an election and biennially thereafter, the Council shall elect from among its members a President and Vice President of the Council. The President, or in the absence of the President, the Vice President, shall preside over meetings of the Council. The Council may provide for the

selection of other officers as the Council may deem desirable for the exercise of its powers.

#### **211. Investigations by the Council**

The Council may investigate the affairs of the County and the conduct and performance of any Agency. The Council may subpoena witnesses, administer oaths, take testimony, and require the production of evidence for purposes of this section. Subpoenas may be issued only upon the affirmative vote of at least four council members.

#### **212. Non-interference**

(a) Neither the Council nor any of its members shall appoint, dismiss, or give directions to any individual employee of the Executive Branch of the Government, except as may be provided by State law or this Charter.

(b) Notwithstanding subsection (a) of this section, it shall be the duty of the Executive to provide any information that is requested by the Council for the purpose of introducing and evaluating legislation or to engage in the review and monitoring of Government programs, activities, and policy implementation.

#### **213. Council Assistance**

The Council may by resolution, at its discretion and subject to the provisions of its budget or supplementary appropriation, employ administrative employees or such legal, financial or other advisors as it deems necessary to perform its functions.

#### **214. Redistricting**

(a) The Council shall appoint by resolution a Redistricting Commission not later than April 1 of the year following each decennial census date. The central committee of each political party shall nominate five persons to serve on the Commission if, at the time of nomination, at least 25 percent of the total number of registered voters in the County are affiliated with the political party. The list submitted by the political party shall include one person who resides in each Council District. The Council shall appoint all such nominees as members of the Commission as well as one or two additional members of the Commission, as the case may be, to ensure that its total membership equals an odd number. The Council shall appoint the Chair of the Commission from among the Commission members. No person shall be eligible for appointment to the Commission who holds elective office.

(b) By November 15 of the year before the year in which redistricting is to take effect, the Commission shall present to the Council a plan of Council Districts, together with a report explaining it. Within thirty days of receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If within ninety days after submission of

the plan no other legislation reestablishing the boundaries of the Council Districts has been enacted, the plan as submitted shall become law.

(c) Any Council District established in accordance with this section shall be compact, contiguous, substantially equal in population, and have common interests as a result of geography, occupation, history, or existing political boundaries.

(d) An ordinance establishing Council Districts shall be exempt from referendum.

### **ARTICLE 3. Legislative Process**

#### **301. Legislative Powers**

In accordance with Section 202 of this Charter, the Council may enact public local laws for the peace, good government, health, safety or welfare of the County and on all subjects that have been delegated to the County under the Maryland Constitution and by the laws of the State. The Council may repeal and amend the local laws for the County heretofore enacted by the General Assembly as provided by law.

#### **302. Legislative Sessions**

Except during the month of November in the year in which council members are elected, the Council may enact legislation on the first and third Tuesdays of each month, and on any additional days the Council may determine necessary. When the first or third Tuesday is a legal holiday, the next succeeding Tuesday shall be a day for the enactment of legislation. In no event shall the Council sit for more than forty-five (45) days in a calendar year for the purpose of enacting legislation.

#### **303. Non-legislative Sessions**

The Council may sit in non-legislative sessions at such other times and places as it may determine. In such sessions the Council may perform any activity or engage any subject matter that is within its powers and duties to perform or engage, other than the enactment or introduction of legislation. The subject matter and activities in non-legislative sessions may include, but are not limited to, conducting public hearings on legislative matters, fact-finding and inquiry, proposing and adopting Bill amendments, as well as deliberating and debating legislation and legislative policy.

#### **304. Legislative Procedure**

(a) Three (3) council members shall constitute a quorum for the transaction of legislative business.

(b) Legislative sessions shall be open to the public, advertised in advance, with such notice to include using electronic media such as the County website, and shall comply with all requirements for open meetings provided by law.

(c) The Council shall provide for the keeping of a journal, which shall be open to public inspection during normal business hours. Copies of the minutes of legislative sessions shall be made available to the public upon approval and shall appear on the County website or otherwise be published using electronic media.

(d) Voting on legislation shall be by roll call, except on procedural motions. The ayes and nays shall be recorded in the minutes.

(e) The Council may adopt and publish additional rules of legislative procedure that may be desirable and not in conflict with this Charter.

### **305. Enactment of Legislation**

(a) The Council may enact no law except by written Bill.

(b) A Bill shall embrace one subject. The subject shall be described in its title. No law may be enacted, revised, or amended by reference to its title alone. The duty of the Council shall be to enact the same format and arrangement of words as the legislation would read when it becomes law.

(c) A Bill may be introduced by one or more council members at a legislative session. A bill and each copy of the bill shall bear the name or names of the council member(s) introducing the bill and the date of introduction.

(d) On the date a Bill is introduced, the Council shall either reject the Bill by an affirmative vote of at least four council members or the President of the Council shall schedule a public hearing on the Bill. Within seventy-two hours of its introduction, a copy of the Bill, with notice of the date, time, and place of the public hearing, shall be publicized. Before a public hearing on a Bill, the title and a fair summary of the Bill and the date, time, and place of the public hearing shall be published at least once each week for two successive weeks in a newspaper of general circulation in the County. If the Council determines that no such newspaper exists in the County, the Council shall use whatever media it deems most suited to satisfy the public notice requirements of this subsection. The President of the Council may schedule more than one public hearing on a Bill, provided the publication and notice requirements of this subsection are met for each hearing.

(e) After a public hearing, the Council may enact a Bill into law, with or without amendment, by an affirmative vote of at least three council members. In the event a Bill is amended before enactment, and the amendment or amendments constitute a change of substance, the Bill, as amended, shall not be enacted into law until the Bill meets the public hearing, notice, and publication requirements of a newly introduced Bill.



(f) A Bill not enacted within ninety days of introduction is void. A Bill not enacted prior to the month of November in any year in which council members are elected to office is void.

### **306. Executive Veto**

(a) Except as otherwise provided in this section, within ten business days after the passage of any legislation, the Council shall deliver the legislation to the Executive for approval or veto. If the Executive takes no action to approve or veto the legislation within ten business days after receipt, it shall be deemed approved as if the Executive had approved it.

(b) If the Executive approves the legislation, it shall take effect as provided in this Charter.

(c) If the Executive vetoes the legislation, the Executive shall return it to the Council together with reasons for the veto stated in writing. Not later than the next legislative session immediately following the receipt of the vetoed legislation, the Council may override the veto by the affirmative vote of four members of the Council.

(d) The Executive shall not veto the annual budget and appropriation law.

### **307. Effective Date of Laws**

The Annual Budget and Appropriations Ordinance shall take effect on the first day of the fiscal year to which it applies. All other laws shall take effect sixty calendar days after enactment, except in the event a law provides for a later effective date or is referred to the voters under Section 308 of this Charter.

### **308. Referendum**

(a) Except for the following, a law, or part of a law, enacted pursuant to this Charter may be referred to the voters for approval upon the filing of a petition signed by ten percent of the registered voters of the County:

- (1) A law imposing a tax;
- (2) A law appropriating funds for current expenses to maintain the Government;
- (3) A law prescribing residency districts.

(b) A petition to refer a law, or portion of a law, to the voters of the County shall meet the requirements of State law and may consist of several papers, but each paper shall contain the full and accurate text of the law, or part of the law, that is subject to the petition. There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures. The affidavit shall state that the signatures were affixed in the person's presence and that, based upon the person's best knowledge and

belief, every signature on the paper is genuine and bona fide and that the signers are registered voters of the County at the address set opposite or below their names.

(c) No later than fifty-nine days following the date a law is enacted, a petition to refer the law, or portion of law, to the voters under this section may be filed with the Board of Supervisors of Elections for the County.

(d) Whenever a petition complying with all the provisions of law and this Charter is filed, the referred law, or the referred portion of law, shall not take effect until thirty days after approval by a majority of voters.

(e) A law, or portion of a law, shall be submitted to the voters pursuant to this section voting either at: (1) the next general election for members of the United States Congress; or (2) a special election called by the Council, which shall be held not less than thirty days and not more than ninety days following the filing of a valid petition pursuant to this section. A special election is prohibited whenever members of the United States Congress are to be elected at a general election within one hundred eighty days of the filing of a valid petition under this section.

### **309. Publication of Laws**

The Council shall cause a fair summary of all laws enacted, amended, or repealed under this Charter to be published promptly at least once in a newspaper of general circulation in the County and on the County website or otherwise be published using electronic media.

### **310. Compilation of Laws**

At intervals not greater than every ten years, the Council shall cause all local laws of the County which are of general application and continuing force in the County to be codified. The codification shall be known as "The Code of Frederick County, Maryland." The publication shall contain an index and appropriate notes, citations, annotations, and appendices as the Council determines.